

Status: Point in time view as at 01/04/2010.

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SCHEDULES

SCHEDULE 6

PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER

Commencement Information

- II** Sch. 6 wholly in force at 1.11.1993 see s. 188(2) and [S.I. 1993/2134, art. 5](#)

PART II

FREEHOLD OF SPECIFIED PREMISES

Price payable for freehold of specified premises

- 2 (1) Subject to the provisions of this paragraph, [^{F1}where the freehold of the whole of the specified premises is owned by the same person] the price payable by the nominee purchaser for the freehold of [^{F2}those] premises shall be the aggregate of—
- (a) the value of the freeholder's interest in the premises as determined in accordance with paragraph 3,
 - (b) the freeholder's share of the marriage value as determined in accordance with paragraph 4, and
 - (c) any amount of compensation payable to the freeholder under paragraph 5.
- (2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

Textual Amendments

- F1** Words in Sch. 6 para. 2(1) inserted (1.10.1996) by [1996 c. 52, s. 107, Sch. 10 para. 18\(3\)\(a\)](#); [S.I. 1996/2212, art. 2\(2\)](#) (with savings in [Sch.](#))
- F2** Words in Sch. 6 para. 2(1) substituted (1.10.1996) by [1996 c. 52, s. 107, Sch. 10 para. 18\(3\)\(b\)](#); [S.I. 1996/2212, art. 2\(2\)](#) (with savings in [Sch.](#))

Value of freeholder's interest

- 3 (1) Subject to the provisions of this paragraph, the value of the freeholder's interest in the specified premises is the amount which at [^{F3}the relevant date] that interest might be expected to realise if sold on the open market by a willing seller (with [^{F4}no person who falls within sub-paragraph (1A)] buying or seeking to buy) on the following assumptions—
- (a) on the assumption that the vendor is selling for an estate in fee simple—

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- (i) subject to any leases subject to which the freeholder's interest in the premises is to be acquired by the nominee purchaser, but
- (ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;
- (b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);
- (c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
- (d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7.

^{F5}[(1A) A person falls within this sub-paragraph if he is—

- (a) the nominee purchaser, or
- (b) a tenant of premises contained in the specified premises, or
- ^{F6}(ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or]
- (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).

(2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at [^{F3}the relevant date] the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.

(3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.

(4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at [^{F3}the relevant date] so far as relating to that flat or other unit shall be taken to be the difference as at that date between—

- (a) the value of his freehold interest in it, and
- (b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;

and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).

(5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—

- (a) any transaction which—

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- (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
 - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or
- (b) any alteration on or after that date of the terms on which any such superior interest is held.
- (6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).

Textual Amendments

- F3** Words in Sch. 6 substituted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 126\(1\)](#), [181\(1\)](#); [S.I. 2004/3056](#), [art. 3\(a\)](#) (with [art. 4\(1\)\(1A\)](#)) (as amended by [S.I. 2005/193](#), [art. 2](#)); [S.I. 2005/1353](#), [art. 2\(a\)](#) (with [art. 3\(2\)](#))
- F4** Words in Sch. 6 para. 3(1) substituted (1.10.1996) by [1996 c. 52](#), [s. 109\(2\)](#); [S.I. 1996/2212](#), [art. 2\(2\)](#) (with savings in [Sch.](#))
- F5** Sch. 6 para. 3(1A) inserted (1.10.1996) by [1996 c. 52](#), [s. 109\(3\)](#); [S.I. 1996/2212](#), [art. 2\(2\)](#) (with savings in [Sch.](#))
- F6** Sch. 6 para. 3(1A)(ba) inserted (1.10.1996) by [1996 c. 52](#), [s. 107](#), [Sch. 10 para. 18\(4\)](#); [S.I. 1996/2212](#), [art. 2\(2\)](#) (with savings in [Sch.](#))

Freeholder's share of marriage value

- 4 (1) The marriage value is the amount referred to in sub-paragraph (2), and the freeholder's share of the marriage value is [^{F7}50 per cent. of that amount].
- (2) [^{F8}Subject to sub-paragraph (2A),] the marriage value is any increase in the aggregate value of the freehold and every intermediate leasehold interest in the specified premises, when regarded as being (in consequence of their being acquired by the nominee purchaser) interests under the control of the participating tenants, as compared with the aggregate value of those interests when held by the persons from whom they are to be so acquired, being an increase in value—
- (a) which is attributable to the potential ability of the participating tenants, once those interests have been so acquired, to have new leases granted to them without payment of any premium and without restriction as to length of term, and
 - (b) which, if those interests were being sold to the nominee purchaser on the open market by willing sellers, the nominee purchaser would have to agree to share with the sellers in order to reach agreement as to price.
- [^{F9}(2A) Where at the relevant date the unexpired term of the lease held by any of those participating members exceeds eighty years, any increase in the value of the freehold or any intermediate leasehold interest in the specified premises which is attributable to his potential ability to have a new lease granted to him as mentioned in sub-paragraph (2)(a) is to be ignored.]

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- (3) For the purposes of sub-paragraph (2) the value of the freehold or any intermediate leasehold interest in the specified premises when held by the person from whom it is to be acquired by the nominee purchaser and its value when acquired by the nominee purchaser—
- (a) shall be determined on the same basis as the value of the interest is determined for the purposes of paragraph 2(1)(a) or (as the case may be) paragraph 6(1)(b)(i); and
 - (b) shall be so determined as at [^{F3}the relevant date].
- (4) Accordingly, in so determining the value of an interest when acquired by the nominee purchaser—
- (a) the same assumptions shall be made under paragraph 3(1) (or, as the case may be, under paragraph 3(1) as applied by paragraph 7(1)) as are to be made under that provision in determining the value of the interest when held by the person from whom it is to be acquired by the nominee purchaser; and
 - (b) any merger or other circumstances affecting the interest on its acquisition by the nominee purchaser shall be disregarded.

Textual Amendments

- F3** Words in Sch. 6 substituted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), ss. 126\(1\), 181\(1\); S.I. 2004/3056, art. 3\(a\) \(with art. 4\(1\)\(1A\)\) \(as amended by S.I. 2005/193, art. 2\); S.I. 2005/1353, art. 2\(a\) \(with art. 3\(2\)\)](#)
- F7** Words in s. Sch. 6 para. 4(1) substituted (26.7.2002 for E. and 1.1.2003 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), s. 127; S.I. 2002/1912, {art. 2\(b\)\(i\)} \(subject to Sch. 2\); S.I. 2002/3012, art. 2\(b\)\(i\) \(subject to Sch. 2\)](#)
- F8** Words in Sch. 6 para. 4(2) inserted (26.7.2002 for E. and 1.1.2003 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), s. 128\(2\); S.I. 2002/1912 {art. 2\(b\)\(i\)} \(subject to Sch. 2\); S.I. 2002/3012, art. 2\(b\)\(i\) \(subject to Sch. 2\)](#)
- F9** Sch. 6 para. 4(2A) inserted (26.7.2002 for E. and 1.1.2003 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), s. 128\(3\); S.I. 2002/1912, art. 2\(b\)\(i\) \(subject to Sch. 2\); S.I. 2002/3012, art. 2\(b\)\(i\) \(subject to Sch. 2\)](#)

Modifications etc. (not altering text)

- C1** Sch. 6 para. 4(2) modified (temp.) (28.2.2005) by [The Commonhold and Leasehold Reform Act 2002 \(Commencement No.5 and Saving and Transitional Provision\) Order 2004 \(S.I. 2004/3056\), art. 4\(1\)](#)
- C2** Sch. 6 para. 4(2) modified (temp.) (17.5.2005) by [The Commonhold and Leasehold Reform Act 2002 \(Commencement No. 3 and Saving and Transitional Provision\) \(Wales\) Order 2005 \(S.I. 2005/1353\), art. 3\(1\)](#)

Compensation for loss resulting from enfranchisement

- 5 (1) Where the freeholder will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This paragraph applies to—
- (a) any diminution in value of any interest of the freeholder in other property resulting from the acquisition of his interest in the specified premises; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.

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- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the specified premises to the extent that it is referable as mentioned in that paragraph.
- (4) In sub-paragraph (3) “development value”, in relation to the specified premises, means any increase in the value of the freeholder’s interest in the premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the premises.
- (5) Where the freeholder will suffer loss or damage to which this paragraph applies, then in determining the amount of compensation payable to him under this paragraph, it shall not be material that—
 - (a) the loss or damage could to any extent be avoided or reduced by the grant to him, in accordance with section 36 and Schedule 9, of a lease granted in pursuance of Part III of that Schedule, and
 - (b) he is not requiring the nominee purchaser to grant any such lease.

^{F10} [Price payable for freehold of part of specified premises

Textual Amendments

F10 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(5)**; S.I. 1996/2212, **art. 2(2)** (with saving in **Sch.**)

- ^{F11}5A (1) Where different persons own the freehold of different parts of the specified premises—
- (a) a separate price shall be payable by the nominee purchaser for the freehold of each of those parts, and
 - (b) sub-paragraph (2) shall apply to determine the price so payable.
- (2) Subject to sub-paragraph (3), the price payable by the nominee purchaser for the freehold of part of the specified premises shall be the aggregate of—
- (a) the value of the freeholder’s interest in the part as determined in accordance with paragraph 3, modified as mentioned in paragraph 5B, and
 - (b) the freeholder’s share of the marriage value as determined in accordance with paragraph 4, modified as mentioned in paragraph 5C, and
 - (c) any amount of compensation payable to the freeholder under paragraph 5.
- (3) Where the amount arrived at in accordance with sub-paragraph (2) is a negative amount, the price payable by the nominee purchaser for the freehold of the part shall be nil.

Textual Amendments

F11 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(5)**; S.I. 1996/2212, **art. 2(2)** (with saving in **Sch.**)

- ^{F12}5B (1) In its application in accordance with paragraph 5A(2)(a), paragraph 3 shall have effect with the following modifications.

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- (2) In sub-paragraph (1)(a)(ii), there shall be inserted at the end “so far as relating to the part of the premises in which the freeholder’s interest subsists”.
- (3) In sub-paragraph (1A), after paragraph (a) there shall be inserted—
 - (“ an owner of a freehold interest in the specified premises, or”.
- (4) In sub-paragraph (4)—
 - (a) the words “the whole of” shall be omitted, and
 - (b) for “2(1)(a)” there shall be substituted “5A(2)(a)”.

Textual Amendments

F12 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(5)**; S.I. 1996/2212, **art. 2(2)** (with saving in **Sch.**)

- ^{F13}5C (1) In its application in accordance with paragraph 5A(2)(b), paragraph 4 shall have effect with the following modifications.
- (2) In sub-paragraph (2)—
 - (a) after “the specified premises” there shall be inserted “so far as relating to the part of the premises in which the freeholder’s interest subsists”,
 - (b) after “participating tenants”, where it first occurs, there shall be inserted “in whose flats the freeholder’s interest subsists”, and
 - (c) in paragraph (a), for “the”, where it second occurs, there shall be substituted “those”.
 - (3) In sub-paragraph (3)—
 - (a) after “the specified premises” there shall be inserted “so far as relating to the part of the premises in which the freeholder’s interest subsists”, and
 - (b) in paragraph (a), for “2(1)(a)” there shall be substituted “5A(2)(a)”.
 - (4) In sub-paragraph (4)(a), after “3(1)”, where it first occurs, there shall be inserted “as applied by paragraph 5A(2)(a)”.]

Textual Amendments

F13 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(5)**; S.I. 1996/2212, **art. 2(2)** (with saving in **Sch.**)

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